

commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce, to the extent practicable, as determined by the Secretary, the risk of dissemination of plant pests or noxious weeds;

(4) decisions affecting imports, exports, and interstate movement of products regulated under this chapter shall be based on sound science;

(5) the smooth movement of enterable plants, plant products, biological control organisms, or other articles into, out of, or within the United States is vital to the United State's¹ economy and should be facilitated to the extent possible;

(6) export markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;

(7) the unregulated movement of plant pests, noxious weeds, plants, certain biological control organisms, plant products, and articles capable of harboring plant pests or noxious weeds could present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(8) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could constitute a threat to crops and other plants or plant products of the United States and burden interstate commerce or foreign commerce; and

(9) all plant pests, noxious weeds, plants, plant products, articles capable of harboring plant pests or noxious weeds regulated under this chapter are in or affect interstate commerce or foreign commerce.

(Pub. L. 106-224, title IV, § 402, June 20, 2000, 114 Stat. 438.)

REFERENCES IN TEXT

This chapter, referred to in pars. (4) and (9), was in the original "this title", meaning title IV of Pub. L. 106-224, June 20, 2000, 114 Stat. 438, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 106-224, title IV, § 401, June 20, 2000, 114 Stat. 438, provided that: "This title [enacting this chapter, amending section 7759 of this title and section 129a of Title 21, Food and Drugs, and repealing sections 148, 148a, 148c to 148f, 149, 150, 150a to 150g, 150aa to 150jj, 151 to 154, 156 to 164, 164a, 167, 1651 to 1656, and 2801 to 2813 of this title, and provisions set out as notes under sections 147a, 150, 150aa, 151, and 1651 of this title] may be cited as the 'Plant Protection Act'."

Pub. L. 106-224, title IV, § 451, as added by Pub. L. 108-412, § 1, Oct. 30, 2004, 118 Stat. 2320, provided that: "This subtitle [subtitle E (§§ 451-457) of title IV of Pub. L. 106-224, enacting subchapter V of this chapter] may be cited as the 'Noxious Weed Control and Eradication Act of 2004'."

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry in-

spection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REGULATIONS TO IMPROVE MANAGEMENT AND OVERSIGHT OF CERTAIN REGULATED ARTICLES

Pub. L. 110-234, title X, § 10204, May 22, 2008, 122 Stat. 1343, and Pub. L. 110-246, § 4(a), title X, § 10204, June 18, 2008, 122 Stat. 1664, 2105, provided that:

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [June 18, 2008], the Secretary [of Agriculture] shall—

"(1) take action on each issue identified in the document entitled 'Lessons Learned and Revisions under Consideration for APHIS' Biotechnology Framework', dated October 4, 2007; and

"(2) as the Secretary considers appropriate, promulgate regulations to improve the management and oversight of articles regulated under the Plant Protection Act (7 U.S.C. 7701 et seq.).

"(b) INCLUSIONS.—In carrying out subsection (a), the Secretary shall take actions that are designed to enhance—

"(1) the quality and completeness of records;

"(2) the availability of representative samples;

"(3) the maintenance of identity and control in the event of an unauthorized release;

"(4) corrective actions in the event of an unauthorized release;

"(5) protocols for conducting molecular forensics;

"(6) clarity in contractual agreements;

"(7) the use of the latest scientific techniques for isolation and confinement distances;

"(8) standards for quality management systems and effective research; and

"(9) the design of electronic permits to store documents and other information relating to the permit and notification processes.

"(c) CONSIDERATION.—In carrying out subsection (a), the Secretary shall consider—

"(1) establishing—

"(A) a system of risk-based categories to classify each regulated article;

"(B) a means to identify regulated articles (including the retention of seed samples); and

"(C) standards for isolation and containment distances; and

"(2) requiring permit holders—

"(A) to maintain a positive chain of custody;

"(B) to provide for the maintenance of records;

"(C) to provide for the accounting of material;

"(D) to conduct periodic audits;

"(E) to establish an appropriate training program;

"(F) to provide contingency and corrective action plans; and

"(G) to submit reports as the Secretary considers to be appropriate."

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

§ 7702. Definitions

In this chapter:

(1) Article

The term "article" means any material or tangible object that could harbor plant pests or noxious weeds.

(2) Biological control organism

The term "biological control organism" means any enemy, antagonist, or competitor used to control a plant pest or noxious weed.

¹ So in original.

(3) Enter and entry

The terms “enter” and “entry” mean to move into, or the act of movement into, the commerce of the United States.

(4) Export and exportation

The terms “export” and “exportation” mean to move from, or the act of movement from, the United States to any place outside the United States.

(5) Import and importation

The terms “import” and “importation” mean to move into, or the act of movement into, the territorial limits of the United States.

(6) Interstate

The term “interstate” means—

(A) from one State into or through any other State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(7) Interstate commerce

The term “interstate commerce” means trade, traffic, or other commerce—

(A) between a place in a State and a point in another State, or between points within the same State but through any place outside that State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(8) Means of conveyance

The term “means of conveyance” means any personal property used for or intended for use for the movement of any other personal property.

(9) Move and related terms

The terms “move”, “moving”, and “movement” mean—

(A) to carry, enter, import, mail, ship, or transport;

(B) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive to carry, enter, import, mail, ship, or transport;

(E) to release into the environment; or

(F) to allow any of the activities described in a preceding subparagraph.

(10) Noxious weed

The term “noxious weed” means any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

(11) Permit

The term “permit” means a written or oral authorization, including by electronic meth-

ods, by the Secretary to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Secretary.

(12) Person

The term “person” means any individual, partnership, corporation, association, joint venture, or other legal entity.

(13) Plant

The term “plant” means any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(14) Plant pest

The term “plant pest” means any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product:

(A) A protozoan.

(B) A nonhuman animal.

(C) A parasitic plant.

(D) A bacterium.

(E) A fungus.

(F) A virus or viroid.

(G) An infectious agent or other pathogen.

(H) Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

(15) Plant product

The term “plant product” means—

(A) any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant; or

(B) any manufactured or processed plant or plant part.

(16) Secretary

The term “Secretary” means the Secretary of Agriculture.

(17) State

The term “State” means any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(18) Systems approach

For the purposes of section 7712(e) of this title, the term “systems approach” means a defined set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities.

(19) This chapter

Except when used in this section, the term “this chapter” includes any regulation or order issued by the Secretary under the authority of this chapter.

(20) United States

The term “United States” means all of the States.

(Pub. L. 106-224, title IV, § 403, June 20, 2000, 114 Stat. 438.)

SUBCHAPTER I—PLANT PROTECTION

§ 7711. Regulation of movement of plant pests**(a) Prohibition of unauthorized movement of plant pests**

Except as provided in subsection (c) of this section, no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) Requirements for processes

The Secretary shall ensure that the processes used in developing regulations under subsection (a) of this section governing consideration of import requests are based on sound science and are transparent and accessible.

(c) Authorization of movement of plant pests by regulation**(1) Exception to permit requirement**

The Secretary may issue regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant pests without further restriction if the Secretary finds that a permit under subsection (a) of this section is not necessary.

(2) Petition to add or remove plant pests from regulation

Any person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations issued by the Secretary under paragraph (1).

(3) Response to petition by the Secretary

In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(d) Prohibition of unauthorized mailing of plant pests**(1) In general**

Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is non-mailable and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless the letter, parcel, box, or other package is mailed in compliance with such regulations as the Secretary may issue to prevent the dissemination of plant pests into the United States or interstate.

(2) Application of postal laws and regulations

Nothing in this subsection authorizes any person to open any mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(e) Regulations

Regulations issued by the Secretary to implement subsections (a), (c), and (d) of this section

may include provisions requiring that any plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from any post office—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest—

(A) may be infested with other plant pests;

(B) may pose a significant risk of causing injury to, damage to, or disease in any plant or plant product; or

(C) may be a noxious weed; and

(4) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests.

(Pub. L. 106-224, title IV, § 411, June 20, 2000, 114 Stat. 440.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 7712. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance**(a) In general**

The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) Policy

The Secretary shall ensure that processes used in developing regulations under this section governing consideration of import requests are based on sound science and are transparent and accessible.

(c) Regulations

The Secretary may issue regulations to implement subsection (a) of this section, including regulations requiring that any plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;